

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amanda Harouche	Team: Team # 1	CCRB Case #: 201400712	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/14/2014 9:30 PM	Location of Incident: § 87(2)(b)	Precinct: 120	18 Mo. SOL 7/14/2015	EO SOL 7/14/2015	
Date/Time CV Reported Fri, 01/17/2014 8:44 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/23/2014 2:47 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Schulman	08380	939435	120 PCT
2. POM James Trapasso	22068	947443	120 PCT
3. SGT Jason Deonarinesingh	02037	936469	120 PCT
4. POM Christophe Duggan	14987	943195	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Richard Guerrieri	01640	948039	120 PCT
2. POM Raymond Rodriguez	28037	946181	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Jason Deonarinesingh	Abuse: Sgt. Jason Deonarinesingh supervised the stop of § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
B.POM Brian Schulman	Abuse: PO Brian Schulman frisked § 87(2)(b) s.	§ 87(2)(b)
C.POM Brian Schulman	Abuse: PO Brian Schulman searched § 87(2)(b) s.	§ 87(2)(b)
D.SGT Jason Deonarinesingh	Force: Sgt. Jason Deonarinesingh pointed his gun at § 87(2)(b)	§ 87(2)(b)
E.SGT Jason Deonarinesingh	Abuse: Sgt. Jason Deonarinesingh searched § 87(2)(b)	§ 87(2)(b)
F.SGT Jason Deonarinesingh	Abuse: Sgt. Jason Deonarinesingh frisked § 87(2)(b)	§ 87(2)(b)
G.POM James Trapasso	Abuse: PO James Trapasso frisked § 87(2)(b)	§ 87(2)(b)
H.POM James Trapasso	Abuse: PO James Trapasso searched § 87(2)(b)	§ 87(2)(b)
I.POM Christophe Duggan	Abuse: PO Christopher Duggan frisked § 87(2)(b)	§ 87(2)(b)
J.POM Christophe Duggan	Abuse: PO Christopher Duggan searched § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
K.POM Brian Schulman	Discourtesy: PO Brian Schulman spoke rudely to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

### Case Summary

On January 14, 2014, at 9:30 p.m., § 87(2)(b) and § 87(2)(b) were in the lobby of § 87(2)(b). PO Brian Schulman, PO Richard Guerrieri, PO James Trapasso, Sgt. Jason Deonarinesingh, PO Christopher Duggan and PO Raymond Rodriguez, all of the 120<sup>th</sup> Precinct, approached the individuals. All of the individuals were stopped and allegedly told to put their hands against the wall (**Allegation A**). PO Schulman frisked and allegedly searched § 87(2)(b) (**Allegations B and C**). At the same time, Sgt. Deonarinesingh allegedly pointed his gun at § 87(2)(b) (**Allegation D**). Sgt. Deonarinesingh then frisked and allegedly searched § 87(2)(b) (**Allegations E and F**). PO Trapasso frisked and allegedly searched § 87(2)(b) (**Allegations G and H**). PO Duggan frisked and allegedly searched § 87(2)(b) (**Allegations I and J**). PO Schulman then allegedly spoke discourteously to § 87(2)(b) (**Allegation K**). All of the individuals' identifications were requested and warrant checks were run for each individual. All of the individuals were released without any summonses or arrests. Stop, Question and Frisk reports were prepared for all of the individuals. The CCRB was only able to obtain statements from § 87(2)(b) and § 87(2)(b) and § 87(2)(b) were unavailable to the investigation despite numerous contact attempts (see civilian contact attempts detailed IA, encl. 5ii).

An OCD spin-off was created on April 8, 2014 under case #§ 87(2)(b) for the allegation of officers taking pictures of the individuals' identifications.

### Mediation, Notice of Claim, and Criminal Histories

§ 87(2)(b) rejected mediation and § 87(2)(b) and § 87(2)(b) were incarcerated during the CCRB investigation; § 87(2)(b) and § 87(2)(b) were unavailable to the investigation and could not be offered mediation. As of March 6, 2015, a Notice of Claim has not been filed with the NYC Comptroller's Office (encl. 23,23a). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) (encl. 2g).
- This is the first CCRB complaint involving § 87(2)(b) (encl. 2h).
- § 87(2)(b) has filed the following CCRB complaints (encl. 2f):
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
- This is the first CCRB complaint involving § 87(2)(b) (encl. 2i).
- This is the first CCRB complaint involving § 87(2)(b) (encl. 2j).
- This is the first CCRB complaint involving § 87(2)(b) (encl. 2k).

- PO Duggan is no longer a member of service; however, he has had two substantiated allegations against him for a stop and a frisk in case number 201304044. Instructions were recommended and the NYPD issued instructions (encl. 2e).
- Sgt. Deonarinesingh has been a member of the service for 10 years and there are no substantiated CCRB allegations against him (encl. 2d). He has had three prior gun drawn allegations be closed as unsubstantiated.
- PO Trapasso has been a member of the service for six years and there is one substantiated allegation against him for a stop in case number 201304044. Instructions were recommended and the NYPD issued instructions (encl. 2b).
- PO Schulman has been a member of the service for nine years and there is one substantiated allegation against him for a discourtesy in case number 201305459. Instructions were recommended and the NYPD issued instructions (encl. 2a).

### **Potential Issues**

Video footage of the lobby was unable to be obtained. The security footage company stated that they only had video footage of the vestibule and front entrance. The video footage that was obtained for the incident only shows PO Schulman, PO Duggan and Sgt. Deonarinesingh entering the building and did not depict the allegations.

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

Because Sgt. Deonarinesingh was the supervising officer on the scene, the stop of all of these individuals, **Allegation A** is being pleaded against him.

After viewing a photo array, both § 87(2)(b) and § 87(2)(b) identified PO Schulman as the officer interacting with § 87(2)(b) (encl. 5j-bb). § 87(2)(b) also identified the officer interacting with § 87(2)(b) as the same officer who spoke discourteously to § 87(2)(b). Additionally, PO Schulman filled out the Stop, Question and Frisk report for § 87(2)(b) (encl. 6c-d). Therefore, **Allegations B, C, and K** are being pleaded against PO Schulman.

After viewing the photo array, § 87(2)(b) identified Sgt. Deonarinesingh as the officer that pointed his gun at him and frisked and searched him, even though PO Trapasso prepared the Stop, Question and Frisk report for § 87(2)(b). After viewing the photo array, § 87(2)(b) also identified Sgt. Deonarinesingh as the officer who put his hand on his gun during the incident. Therefore, **Allegations D, E, and F** are being pleaded against Sgt. Deonarinesingh.

After viewing the photo array, § 87(2)(b) identified PO Trapasso as the officer that was taking the photos of them and during his statement he stated that the officer who was taking photos of them was the same officer who searched § 87(2)(b). Additionally, PO Trapasso filled out the Stop, Question and Frisk report for § 87(2)(b) (encl. 8d-e). Therefore, **Allegations G and H** are being pleaded against PO Trapasso.

After viewing a photo array, § 87(2)(b) identified PO Duggan as the officer that frisked and searched him. Therefore, **Allegations I and J** are being pleaded against PO Duggan.

## **Investigation Findings and Recommendations**

### **Allegations Not Pleaded**

**Frisks/Searches:** Though § 87(2)(b) and § 87(2)(b) all believed that both § 87(2)(b) and § 87(2)(b) were searched by police, they did not actually witness a search and § 87(2)(b) and § 87(2)(b) were unable to be contacted despite repeated attempts by the CCRB (encl. 5ii). Additionally, there is no documentary evidence to support that § 87(2)(b) and § 87(2)(b) were frisked and/or searched.

**Discourtesy:** § 87(2)(b) alleged that PO Schulman used profanity towards § 87(2)(b). However, § 87(2)(b) did not allege this in his own CCRB interview.

### **Allegation A: Abuse of Authority – Sgt. Jason Deonarinesingh supervised the stop of**

§ 87(2)(b) and § 87(2)(b) all stated that multiple officers entered the lobby of § 87(2)(b) in Staten Island, which is part of a Formal Trespass Affidavit Program (FTAP) building (encl. 12b). § 87(2)(b) and § 87(2)(b) were all standing in the lobby at the time. Some of the officers entered from the front entrance and some entered from the back of the building and stopped all of the males standing in the lobby, issuing them instructions with which they all complied. § 87(2)(b) stated that PO Schulman told them all to put their hands against the wall (encl. 5a-i), § 87(2)(b) stated that officers told them to turn around and place their hands on the wall (encl. 5j-o), and § 87(2)(b) stated that Sgt. Deonarinesingh told all of them to put their hands up and not move (encl. 5p-u). § 87(2)(b) § 87(2)(b)'s mother, corroborated this, stating that when she arrived in the lobby she saw her son and his friends standing with their hands on the wall (encl. 5cc). § 87(2)(b) and § 87(2)(b) all indicated that they were frisked immediately after putting their hands against the wall. § 87(2)(b) mother, arrived in the lobby towards the end of the incident and saw the officers handling the males' identifications back to them (encl. 5dd).

Stop, Question, and Frisk reports were prepared for all six of the individuals in the lobby. They note that the individuals were observed for two minutes prior to the stop. § 87(2)(b) and § 87(2)(b)'s Stop, Question and Frisk reports, both prepared by PO Schulman, note that they were stopped for criminal possession of a weapon and circumstances leading to their stops included making actions indicative of casing a victim or location and furtive movements (encl. 6c-d, encl. 6e-f). § 87(2)(b) and § 87(2)(b)'s Stop, Question and Frisk reports all note that they were stopped for criminal trespass and circumstances leading to their stops included reasonable suspicion of criminal activity - hanging out in the lobby where "no trespassing" signs were posted, furtive movements, actions indicative of acting as a lookout, wearing clothes/disguises commonly used in the commission of the crime, fitting description, and actions indicative of engaging in violent crimes (encl. 7d-e, 8d-e, 8f-g, and 10c-d; see detailed summary of reports in encl. 12a). The Stop, Question and Frisk reports also note that § 87(2)(b) and § 87(2)(b) were frisked but not searched. The reports have differing lengths of the stop ranging from two to ten minutes.

Sgt. Deonarinesingh stated that as soon as he entered § 87(2)(b) he saw five to six male individuals standing in a line against the wall of the building lobby. Sgt. Deonarinesingh approached the group to determine whether they were trespassing and obtain their identifications.

The individuals did not appear to be doing anything and he could not recall any of them reacting to the officers entering the lobby. Once he approached the group, Sgt. Deonarinesingh recognized § 87(2)(b) and § 87(2)(b) from their known gang affiliation and criminal histories. Sgt. Deonarinesingh did not know if § 87(2)(b) lived in the building. Sgt. Deonarinesingh did not suspect the group of any crimes aside from criminal trespass. When the males were approached, they were first asked if they had identification and if they lived in the building. Neither Sgt. Deonarinesingh nor any other officer issued any instructions to the individuals in the group. The individuals were never instructed to stand against a wall and none of the individuals ever stood with their hands against the wall during the incident (encl. 9a-e). PO Guerrieri corroborated this and stated that when the officers entered the lobby, all six individuals were standing in a row with their backs to the wall and each of the six officers approached one of the individuals. PO Guerrieri did not recall whether or not any instructions were issued, but indicated that the males were separated (encl. 7a-i).

PO Rodriguez stated that after he, PO Guerrieri and PO Trapasso viewed the live surveillance cameras of the building and observed multiple male individuals in the lobby, they entered the building lobby with PO Duggan, PO Schulman and Sgt. Deonarinesingh and approached the males. The males were each asked for their name and where they lived; no officer asked the males to turn around and put their hands against the wall or asked them to put their hands up (encl. 10a-h).

PO Duggan (encl. 11a-d), PO Schulman (encl. 6a-h), and PO Trapasso (encl. 8a-j) did not recall this incident. PO Trapasso thought that only § 87(2)(b) and § 87(2)(b) were in the lobby during this incident because those were the only names he had listed in his memo book.

§ 87(2)(g)

[REDACTED]

An officer may stop an individual if the officer has reasonable suspicion that an individual has been involved in criminal activity. People v. DeBour, 40 N.Y.2d 210 (1976) (encl.1a-k). Patrol Guide Interim Order Number 23 states that an officer may approach and question persons who may be violating Housing Authority rules and regulations, including potentially unauthorized persons found in Housing Authority buildings. It additionally states that an officer may not stop a suspected trespasser unless the officer reasonably suspects that the person is in the building without authority (encl. 11-o). A stop based on no more than that a suspect has previously been arrested is premature and unlawful. People v. Thomas, 115 A.D.3d 69 (App Div. 1<sup>st</sup> Dept. 2014) (encl. 1p-u). A person located inside of a city housing building that has a history of drug activity maybe approached by police, questioned about residency and required to produce identification, even if that person has not engaged in conduct indicative of criminality. People v. Ventura, 30 Misc.3d 587 (Sup. Ct. New York Cty. 2010) (encl. 1ff-hh).

The FTAP affidavit gives officers the same rights and restrictions regarding stopping an individual suspected of trespassing as they have in NYCHA buildings, as the permission and

authority statement from the owner is on file with the NYPD (encl. 12b). As per the majority of officer testimony and the majority of the Stop, Question and Frisk reports prepared for this incident, most of the individuals in the group were suspected of criminal trespass and § 87(2)(b) is a building with a trespassing problem. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation B: Abuse of Authority – PO Brian Schulman frisked § 87(2)(b)**

**Allegation F: Abuse of Authority – Sgt. Jason Deonarinesingh frisked § 87(2)(b)**

**Allegation G: Abuse of Authority – PO James Trapasso frisked § 87(2)(b)**

§ 87(2)(b) stated that PO Schulman approached him and immediately patted down § 87(2)(b) chest and then patted down his waistband and front and back pants pockets (encl. 5a-i). § 87(2)(b) stated that Sgt. Deonarinesingh, who he identified in a photo array, patted the waistband of his pants and then patted down his legs. Though § 87(2)(b) was unavailable to the investigation, § 87(2)(b) alleged on behalf of § 87(2)(b) that he saw PO Trapasso “searching” § 87(2)(b) (encl. 5j-o). § 87(2)(b) also saw the officers patting under the arms and around the waist of her son, § 87(2)(b) and his friends who were standing in the lobby § 87(2)(b) did not know § 87(2)(b) s friends) (encl. 5cc). § 87(2)(b) also corroborated the frisk of § 87(2)(b) (encl. 5dd).

PO Guerrieri stated that he observed PO Trapasso frisking a male individual’s waistband, though he did not know which male PO Trapasso frisked. PO Guerrieri did not witness any of the other officers, besides PO Trapasso, frisk any of the other individuals during the incident. PO Guerrieri admitted to frisking § 87(2)(b) however, § 87(2)(b) alleged this frisk against PO Duggan (see **Allegation I**) (encl. 7a-i).

Sgt. Deonarinesingh stated that he stood back from the group and did not directly deal with any of the individuals in the lobby. Sgt. Deonarinesingh did not suspect the group of any crimes other than criminal trespass and he could not recall any of the other officers informing him that they suspected him of anything else. There was nothing about them that indicated to Sgt. Deonarinesingh that they were armed, aside from their criminal histories. Sgt. Deonarinesingh denied frisking any of the individuals and did not think that any of the individuals were frisked by any of the officers during the incident (encl. 9a-e).

PO Rodriguez did not see any of the officers frisk anyone in the lobby (encl. 10a-h). PO Trapasso and PO Schulman did not recall the incident, and they both did not recall frisking anyone during the incident or witnessing any other officer frisk anyone during the incident (encl. 8a-j, 6a-h). PO Duggan also did not recall this incident (encl. 11a-d).

The Stop, Question and Frisk report prepared by PO Schulman for § 87(2)(b) states that he was suspected of criminal possession of a weapon and that he was frisked. The reasons the frisk was performed were inappropriate attire - possibly concealing weapon, knowledge of suspect's prior criminal violent behavior, and use of force/use of weapon (encl. 6c-d).

The Stop, Question and Frisk reports prepared by PO Trapasso for § 87(2)(b) (encl. 8f-g) and § 87(2)(b) (encl. 8d-e) show that they were suspected of criminal trespass and were frisked. The reasons checked off for the frisk are knowledge of suspect's prior criminal violent behavior, use of force/ use of weapon, and furtive movements.

The Stop, Question and Frisk reports prepared for § 87(2)(b) (encl. 6e-f), § 87(2)(b) (encl. 10c-d) and § 87(2)(b) (encl. 7d-e) prepared by PO Schulman, PO Rodriguez and PO Guerrieri, respectively, all indicate no frisk was performed.

Under People v. DeBour, an officer can only frisk a civilian if he reasonably suspects the civilian to be armed. 40 N.Y.2d 210, 223 (1976) (encl. 1a-k). The officers' knowledge of a person's prior criminal activity in the same neighborhood is not sufficient to give rise to reasonable suspicion for a stop. People v. Thomas, 115 A.D.3d 69 (App Div. 1<sup>st</sup> Dept. 2014) (encl. 1p-u).

§ 87(2)(g)

[REDACTED]

**Allegation C: Abuse of Authority – PO Brian Schulman searched** § 87(2)(b)  
**Allegation D: Force – Sgt. Jason Deonarinesingh pointed his gun at** § 87(2)(b)  
**Allegation E: Abuse of Authority – Sgt. Jason Deonarinesingh searched** § 87(2)(b)  
**Allegation H: Abuse of Authority – PO James Trapasso searched** § 87(2)(b)  
**Allegation K: Discourtesy – PO Brian Schulman spoke discourteously to** § 87(2)(b)

§ 87(2)(b) stated that PO Schulman's hands entered his jacket pockets and pants pockets (encl. 5a-i). § 87(2)(b) stated that Sgt. Deonarinesingh searched under his hoodie and in his pants pockets. § 87(2)(b) also stated that he saw § 87(2)(b) who was standing against the wall right next to him, being searched by PO Trapasso (encl. 5j-o). § 87(2)(b) stated that when she arrived in the lobby, the officers were putting their hands in her son § 87(2)(b) and his friends' pockets, lifting their pants legs up, and making them take their shoes off (encl. 5cc).

§ 87(2)(b) stated that as the officers entered the building, Sgt. Deonarinesingh drew his gun and pointed it at § 87(2)(b) (encl. 5j-o). § 87(2)(b) stated that Sgt. Deonarinesingh had his hand on his gun as if he was going to draw his gun while saying, "Don't make me." (encl. 5p-u) § 87(2)(b) did not make any mention of a gun (encl. 5a-i).



§ 87(2)(b) heard § 87(2)(b) ask the officers why they were being stopped and he heard PO Schulman respond, “Shut your fucking mouth” (encl. 5p-u). § 87(2)(b) stated that one of the males in the lobby, § 87(2)(b) did not recall who, asked the officers why they were being searched but got no response (encl. 5a-i). § 87(2)(b) heard PO Schulman having an argument with § 87(2)(b) and he believed he heard PO Schulman directing profanity at § 87(2)(b) but he was not certain because he could not entirely hear the conversation (encl. 5j-o).

Sgt. Deonarinesingh stated that he never drew his gun or pointed his gun at anyone during the incident and did not witness any other officer doing so. Sgt. Deonarinesingh did not think that any of the individuals were searched by any of the officers during the incident and he denied searching any of the individuals himself (encl. 9a-e).

PO Rodriguez and PO Guerrieri did not see any officer search any of the individuals and they did not see any officer draw or point their gun at any of the individuals (encl. 10a-h, 7a-i). PO Trapasso and PO Schulman did not recall searching anyone during the incident and he did not see an officer draw or point their gun at any of the individuals (encl. 8a-j, 6a-h). PO Duggan did not recall the incident (encl. 11a-d).

None of the Stop, Question and Frisk reports prepared for this incident indicates that any of the individuals were searched (encl. 6c-d, 6e-f, 7d-e, 8d-e, 8f-g, 10c-d).

§ 87(2)(g)  
[REDACTED]

**Allegation I: Abuse of Authority – PO Christopher Duggan frisked § 87(2)(b)**

**Allegation J: Abuse of Authority – PO Christopher Duggan searched § 87(2)(b)**

§ 87(2)(b) alleged that PO Duggan frisked and searched him before asking for his identification. PO Duggan was interviewed at the CCRB on November 25, 2014 and did not recall the incident. However, PO Duggan resigned on December 29, 2014 (encl. 24). § 87(2)(g)

§ 87(4-b), § 87(2)(g)  
[REDACTED]

[REDACTED]

[REDACTED]

Team: \_\_\_\_\_

Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date